

## The Enforcement Tab (Regulatory Measure Module) – Business Rules - Detailed

For additional information on data entry including business processes and more business rules, visit the CIWQS intranet page at <http://waternet.waterboards.ca.gov/oima/ciwqs/index.shtml>.

Within CIWQS, enforcement actions are considered a special type of regulatory measure, and therefore, are tracked within the regulatory measure module. However, because there are unique aspects to an enforcement action, a new tab appears when the regulatory measure type is an enforcement action. Users can identify enforcement actions because the regulatory measures type begins with the word “enforcement,” such as “Enforcement → Notice of Violation.”

Like other parts of CIWQS, an enforcement action regulatory measure should describe the regulatory picture by showing what violations led up to the enforcement action, who the enforcement action was issued to, and what the enforcement action requires. This document only describes the data entry necessary on the Enforcement Tab itself. Rules for the other tabs within the regulatory measure record are described in the [Regulatory Measure Business Rules](#).

Some enforcement actions do not contain explicit requirements for the discharger to do something. These should be made “historical” upon issuance but must have associated violations that led to the action. If there are explicit requirements for the discharger to complete, projects and/or liabilities must be created, in addition to associating violations to the action. However, if the enforcement action requires “on-going” reporting of analytical data, then these report requirements may be tracked as report expectations, using the Self-Monitoring Report functionality of CIWQS. On-going is generally considered more than a year duration of reporting. Non-analytical reports, such as status reports for an upgrade project, should be tracked as milestones within the enforcement action using the rules within this document. See the [Paper SMR Process](#) for additional information on creating paper reporting requirements.

Additionally, if the action is considered “formal,” the document issued must also be uploaded into CIWQS on the attachments tab and the “Publish” checkbox marked. These documents are then used by the Enforcement Orders report, which allows members of the public to access formal enforcement actions, as the Water Boards are required to make available.

Enforcement action entry is initiated on the “Linked Enforcement Action” tab of the Violation Module. A “wizard” helps users create a complete record by pre-populating the related parties and place, relating the violated order, linking an applicable WDID, and asking questions to walk the user through the various fields of an enforcement action.

See the [“Creating An Enforcement Action”](#) business process for more information on the navigation through creating an enforcement action in CIWQS.

For more information on developing and issuing enforcement actions, please see the Enforcement Policy, which can be found at [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf).

### Summary Information

The top of the Enforcement Tab summarizes dollar amounts of milestones that are within projects and liabilities associated with the enforcement action. There are many enforcement actions that do not have monetary values associated with them, so in those cases, this portion of the record would be collapsed.

The table displays information for Assessed Amounts, Paid or Spent amounts, and Pending Amounts. The Liability row displays the sum of completed and not completed milestones under the Assessed Amount column. The sum of the amount that has been paid towards the liabilities is in the next column, and the amount left to be paid is in the Pending column.

In the project row, the Assessed Amount displays the amount that a project is worth, if there is an associated amount, the Paid/Spent amount is the sum of the amount spent by the discharger towards completing the required tasks, and the Pending column displays the sum of the amounts that the discharger is still responsible for completing.

The initial liability row displays the sum of “initial liability” milestones from all projects and liabilities within the enforcement action, regardless of the status of the milestone.

### Staff Costs<sup>#</sup>

Enter the dollar amount of the staff costs devoted to the preparation of the enforcement action. This amount should be cited in the enforcement action and is for information only; it does not impact the milestone amounts specified in the record. This field is required for ACLs, Stipulated Penalties, Court Ordered Settlements, and Clean-up and Abatement Orders (CAOs).

### Economic Benefit<sup>#</sup>

Enter the dollar amount equivalent to the amount that the discharger saved by not complying with orders or codes. This amount should be cited in the enforcement action and is for information only; it does not impact the milestone amounts specified in the record. This field is required for ACLs. Upload the associated economic benefit memo to the attachments tab. Do not mark it to be published.

### Maximum Potential Liability<sup>#</sup>

This is the maximum dollar amount that could be assessed by the Water Board, pursuant to the Water Code. This amount should be cited in the enforcement action. This field is required for ACLs.

---

<sup>#</sup> Conditionally required field

### **Link a Violation<sup>\*</sup>**

All violations that are addressed by the enforcement action must be linked to the enforcement action when the record is complete and the enforcement action is in effect. The screen defaults to displaying 10 violations. All linked violations can be seen by clicking on the “here” hyperlink at the top right of the violation section.

Violations that occurred after the enforcement action was issued should not be linked.

For Time Schedule Orders (TSOs) and Cease and Desist Orders (CDOs) that “allow” for exceedence of the base order, violations of the base order can be recorded in CIWQS and linked to the existing enforcement actions that allow the exceedences on this tab. In this case, the occurrence date will be after the effective date of the enforcement action.

Once a facility has been linked to the record, the related facility pre-populates the search screen when searching for violations.

### **Creating Projects and Liabilities**

Projects are created when the discharger must do something besides pay a fine, such as a Supplemental Environmental Project (SEP) or submit a report demonstrating capacity. [Liabilities](#) are created when the discharger must pay a fine. If the discharger is required to pay a fine and do something else, both a Project and a Liability must be created.

The data entry wizards in CIWQS guide entry of new records. Monetary enforcement actions must also be updated using a wizard. Not all of the fields described below will be available in all situations.

### **Projects<sup>#</sup>**

#### **Responsible Party<sup>\*</sup>**

The Responsible Party is at least one of the parties in violation and that is responsible for complying with the project. If the enforcement action specifies what activities each party is supposed to complete, a project should be created specifically for each party. If the enforcement action does not specify and there are multiple named organizations responsible, multiple related parties may be added to the project after the regulatory measure has been created. Projects within ACL records may not have multiple responsible parties.

#### **Project Name<sup>\*</sup>**

The name of the project should be short and descriptive of the required project, for example, “Bank Stabilization Project” or “Clarifier Upgrade Project”.

#### **Project Type<sup>\*</sup>**

Type	Definition
------	------------

---

<sup>\*</sup> Required field

Compliance Project	A Compliance Project is a project that is designed to address problems related to the violation and bring the discharger back into compliance in a timely manner. Compliance Projects are associated with specific potential liability amounts.
Enhanced Compliance Action	Enhanced Compliance Actions are projects that enable a discharger to make capital or operational improvements beyond those required by law, and are separate from projects designed to merely bring a discharger into compliance.
Other Project with no \$Assessment	A requirement or group of requirements that must be completed by a specified date. For instance, requirements within a CAO shall be classified as this type of project.
Pollution Prevention Project	A project designed to cause a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water. This type of project is allowed for in special circumstances, as defined by the Water Code.
Supplemental Environmental Project (SEP)	SEPs are projects that enhance the beneficial uses of the waters of the State, provide a benefit to the public at large, and that, at the time they are included in an ACL action, are not otherwise required of the discharger. SEPs are associated with specific potential liability amounts.

#### Addresses an MMP\*

Check the “yes” radio button if any of the project addresses an MMP. Check the “no” radio button if none of the project addresses an MMP.

#### Description<sup>#</sup>

Provide a brief description of the project. This field displays in the Penalty Project Report.

#### Status

This read-only field displays “not complete” if there are any milestones within the project that have the status “not complete” or “modified.” It displays “complete” if all milestones within the project have the status of either “complete,” “superseded,” or “modified.”

#### Due Dates

These read-only fields display the dates of when the project is to be completed, according to the milestones entered. The first date is the due date of the earliest milestone and the second date is the due date of the latest milestone. If there is only one milestone, only one date will display.

#### Actual Dates

These read-only fields display the dates when the project was completed, according to the milestones.

#### Total Assessment

This read-only field displays the sum of completed and not completed milestones within the project. Milestones with the status of “superseded” and “modified” are not included.

**Comments:**

This field is not required but may be used for status updates of discharger activities or other noteworthy situations.

**Create New Milestone:**

Record the milestones as they are written in the enforcement action. If there are multiple, you must complete all of the fields associated with one, save, and then create a new milestone.

**Milestone Type<sup>#</sup>:**

Select appropriate task type for the milestones as they are described in the enforcement action.

Type
ACL Project
Begin Construction
Begin Design
Begin Facilities Operations
Begin Other Project
Closure Date
Complete Construction
Complete Design
Complete Other Project
Compliance Date
Conduct Sampling
Hearing Waiver Request Notice Date
Implement Work Plan
Initial ACL Liability
Initial ACL Project Liability <sup>1</sup>
Other
Response Date
Return to Compliance w/ Permits/Reqmts
Submit Monitoring Report
Submit Status Report
Submit Technical Report
Submit Work Plan
Third Party Payment

<sup>1</sup> This milestone type is inserted automatically by the ACL Wizard. It contains the suspended liability amount of the project.

### Comment

Free text field to briefly name the task the discharger must complete.

### Status<sup>#</sup>

Status	Definition
Completed	Responsible party has performed required milestone.
Modified	This status indicates that the entry of the milestone contained an error and it should be disregarded, but cannot be deleted because of the link to the Financial Management System (FMS).  This status is only necessary within monetary actions.
Not Completed	Responsible party has not performed required milestone.
Superseded	Milestone was replaced with another project or liability milestone.
Withdrawn	Responsible party is no longer required to complete milestone and it was not replaced by another requirement. Enter the reason that the milestone is withdrawn in the description field of the project.

### Water Code<sup>#</sup>

Select the Water Code section that gives the authority to require the specific milestone of the project. Clicking on the “Full Code Descriptions” link will open a new window that provides a description of each code within the drop down menu. The “select” hyperlink corresponding to the appropriate description will complete the field.

Separate milestones must be created for each code section referenced.

The Water Code sections that appear are dependent on the type of enforcement action that is being created.

### Due Date<sup>#</sup>:

Enter the date that the milestone must be completed. This is required if a project is created.

### Milestone Amount<sup>#</sup>

This is only applicable to ACLs, EPLs, and Stipulated Penalty. This is the suspended liability amount for the project (i.e. the amount assessed if the project is not completed on time).

### Outstanding Amount

This is a read-only, calculated field. If the status is “not completed” then the milestone amount will be outstanding. If the milestone status is “completed,” “superseded,” “withdrawn,” or “modified” the outstanding amount is zero.

## **Liabilities**<sup>#</sup>

### **Responsible Party**<sup>#</sup>

The Responsible Party is one of the parties in violation and is responsible for paying the liability. One and only one responsible party may be associated to a liability.

### **Liability Name**<sup>#</sup>

The name of the liability should be short and descriptive of the required liability, for example, "Liability for \$5000" or "ACME Liability".

### **Addresses an MMP**<sup>\*</sup>

Check the "yes" box if any of the liability addresses an MMP. Check the "no" box if none of the liability addresses an MMP.

### **Description:**

Provide a brief description of the liability, if needed.

### **Status:**

This read-only field displays "not complete" if there are any milestones within the liability that have the status "not complete" or "modified." It displays "complete" if all milestones within the project have the status of either "complete," "superseded," or "modified."

### **Due Dates:**

These read-only fields display the dates of when the liability is to be paid, according to the milestones entered. The first date is the due date of the earliest milestone and the second date is the due date of the latest milestone. If there is only one milestone, only one date will display.

### **Actual Dates:**

These read-only fields display the dates when the liability was paid, according to the milestones.

### **Total Assessment:**

This read-only field displays the sum of completed and not completed milestones within the liability. Milestones with the status of "Superseded" or "Modified" are not included.

### **Comments:**

This field is not required but may be used for status updates of discharger activities or other noteworthy situations.

### **Create New Milestone:**

Record the milestones as they are written in the enforcement action. If there are multiple, complete all of the fields associated with one, save, and then create a new milestone.

### **Milestone Type**<sup>#</sup>:

Select appropriate task type for the milestones as they are described in the enforcement action.



Type
ACL Liability
ACL Liability for Overdue Project <sup>2</sup>
Initial ACLC Liability

**Comment<sup>#</sup>:**

Free text field to briefly name the task the discharger must pay.

**Status<sup>#</sup>:**

Status	Definition
Completed	Responsible party has paid liability milestone amount.
Modified	This status indicates that the entry of the milestone contained an error and it should be disregarded, but cannot be deleted because of the link to FMS.  This status is only necessary within monetary actions.
Not Completed	Responsible party has not paid the complete milestone amount and is required to pay all or a portion of milestone amount.
Payment Plan	This status is used when a payment plan has been negotiated as part of a settlement agreement. CIWQS contains functionality that will change the status of the milestone from "Payment Plan" to "Not Completed" 30 days before the due date of the milestone.
Superseded	Milestone was replaced with another project or liability milestone.

**Water Code<sup>#</sup>**

Select the Water Code section that gives the authority to require the specific milestone of the liability. Clicking on the "Full Code Descriptions" link will open a new window that provides a description of each code within the drop down menu. The "select" hyperlink corresponding to the appropriate description will complete the field.

Separate milestones must be created for each code section referenced.

The Water Code sections that appear are dependent on the type of enforcement action that is being created.

**Due Date<sup>#</sup>:**

Enter the date by which the milestone must be paid.

**Actual Date**

<sup>2</sup> This milestone type is inserted automatically by CIWQS when a late project is converted into a liability.



This date comes from FMS, where Division of Administrative Services (DAS) staff record payments.

**Milestone Amount<sup>#</sup>**

This is the penalty amount the discharger is being assessed.

**Invoice #**

This identifier comes from FMS.

**Invoice Date**

This is the date that the receivable for the milestone was created in FMS. It comes from FMS.

**Invoice Due Date**

This is 30 days from when the receivable for the milestone was created in FMS. It comes from FMS and is the due date printed on the invoice.

**Invoice Status**

This is the invoice status as recorded in FMS. It comes from FMS.

**Paid/Received Amount<sup>#</sup>**

This is the amount recorded in FMS as being received for the receivable. It comes from FMS.

**Outstanding Amount**

If the status of the milestone is modified or supersede, the outstanding amount will be zero. For other statuses, the amounts are calculated using: Milestone Amount – Paid/Received Amount.

**Comment**

Free text field to briefly name the task the discharger must complete.

**Attaching the Enforcement Action:**

If the regulatory measure is a formal enforcement action, a Portable Deliverable Format (PDF) version of the actual order must be uploaded to the “Attachments” tab and the the “Publish” checkbox must be checked so that the document to display in the Enforcement Orders report.

The text within the “Description” field on the General Info tab also displays on the Enforcement Orders Report.

Formal enforcement actions include:

- Notice to Comply
- Notice of Stormwater Noncompliance
- Technical Reports and Investigations (13267 Letters)
- Cleanup and Abatement Orders
- Section 13300 Time Schedule Orders
- Section 13308 Time Schedule Orders
- Cease and Desist Orders

- Modification Or Rescission of Waste Discharger Requirements
- Administrative Civil Liability
- Referrals to Attorney General, District Attorney, United States Attorney or City Attorney

A Document Type must be selected from the drop down menu.

Document Type	Description
Amendment	The document that modifies the action that the regulatory measure represents.
Complaint	An Administrative Civil Liability (ACL) Complaint. ACL orders should use the “Final Order/Resolution” option.
Final Letter/NOV	The final version of a written communication issued by Water Board staff, including informal enforcement actions.
Final Order/Resolution	The signed version of a Board adopted or Executive Officer/Director issued action, that is not more specifically categorized by another document type.
Hearing Waiver	The signed version of an ACL attachment saying that the discharger agrees to waive their right to a hearing. This could be to pay the assessed amount, to enter into settlement negotiations, or to waive their right to a hearing within 90 days.
Other	Another document type not otherwise listed.  All attachments that were uploaded to CIWQS before 7/8/2013 were assigned this type.
Rescission	The document that terminates a previously issued order, if done through a separate action, not the reissuance of a new order.

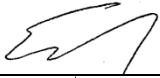
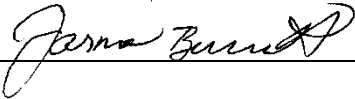
If the file name does not indicate what the file is, or if there are multiple files with similar names, a file description should be entered.

The “Publish” checkbox enables the document link to appear in the header. Only final documents should have this checkbox selected.

All information is saved upon clicking the “Upload File” button. If subsequent changes are

made, use the “Save Attachment Changes” button.

Do not upload copies of checks.

APPROVAL SECTION			
<u>Approver</u>	<u>Printed Name</u>	<u>Signature</u>	<u>Date</u>
Business Rules Team	Committee Members Present	Approved as Meeting Agenda Item	8/6/2013
CIWQS Quality Assurance Lead	Eric Maag		8/6/2013
Statewide CIWQS Coordinator	Jarma Bennett		8/6/2013

### Summary of Changes

Version	Summary of Major Changes	Date
1	Original version controlled document	8/24/09
2	Clarification on tracking on-going reports	10/11/2010
3	<ul style="list-style-type: none"> <li>Changes to be consistent with the ACL Wizard</li> <li>Addition of reference to document type</li> </ul>	8/5/2013